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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,562	09/27/2000	Thomas G. Woolston	032997-036	7517
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FISH & RICHARDSON, PC			EXAMINER	
P.O. BOX 1022				FISCHETTI, JOSEPH A
MINNEAPOLIS, MN 55440-1022			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/670,562	WOOLSTON, THOMAS G.
	Examiner	Art Unit
	Joseph A. Fischetti	3627

~ The MAILING DATE of this communication appears on the cover sheet with the correspondence address ~
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 November 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 11-24 is/are pending in the application.
 4a) Of the above claim(s) 11-20, 23 and 24 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 21 and 22 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

Election/Restrictions

Claims 11-20,23,24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention/species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/18/05. Applicant's arguments are considered but are not persuasive because the examiner has set out the legal requirement for the restriction and will incur undue burden by examining additional inventions/ species given that this is a business method case and each base claim will need to be documented against the enormity of the art in ... any reasons for allowance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21,22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In claims 21, and 22 it appears from the recitation of claim 21, lines 3-4 that the computer application program operates to authorize a plurality of remote seller participants to post ... a plurality of item for auction. Then again in line 7, the same recitation and again at lines 21 et seq. it is recited providing the seller participants the selection of topographical categories, which the examiner interprets as providing the seller with access to the interface. However, the specification, and particularly the SUMMARY, at page 3, makes a clear distinction that the computer system recited in claim 21 is operated and owned to the point of a licensee to the exclusion of the seller participant.

The present invention is a network of consignment nodes and a low cost easy to use posting terminal for the virtual presentation of goods to market. A consignment node is a computer database of used goods preferably operated by a used good, collectable shop keeper or a bailee. A posting terminal is a low cost easy to use computer and computer peripheral devices used by a small store owner to present goods to a computerized marker and track the sales of goods and control the posted inventory. All consignment nodes users or operators, hereinafter users, are trusted licensees or franchisers of the software and hardware necessary to create and operate a consignment node. Thus, the network provides a trusted means for consignment node users, e.g. shop keepers, to establish electronic markets for collectable goods, establish electronic auctions, establish a means for searching each others shops to locate hard to find collectibles items, and a means to electronically present goods to a market.

Thus, to now claim seller control of the interface, and attendant programs is; 1. to claim a feature not disclosed in the specification and 2. to fly in the face of applicant's clear statement that the invention provides a trusted means through the intermediary of trusted licensees or franchisers of the software and hardware necessary to create and operate a consignment node, which is inconsistent with the seller participants interface control.

Claims 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "topographical" is not understood. Are there some type of surface characteristics being used in the program and/or presented at the interface?

Specification

Claims 21 and 22 are objected to because of the following informalities: There is no antecedent basis for the term "topographical". If applicant is trying to reference the data input which is described bridging pages 16 and 17, then the specification should so indicate. Also, the word "asynchronous" as recited in the claims is not found in the

specification. Applicant is cautioned as to the addition of any new matter. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 21,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindsey '383 in view of eBay and Chadima Jr. et al.

Lindsey et al. discloses a computer system executing a computer application program operative to authorizing a plurality of remote seller participants (gin seller) to post, using a computer application program executing on a computer system associated with the plurality of remote seller participants, a plurality of items (cotton bales) for auction at a remote auction system. Lindsey further disclose the computer application program retrieving information about a topographical structure of the remote auction system from a data repository while the computer application program is isolated from communication with the remote topically arranged internet based auction system (cotton gin application program allows for data as set forth gin name, address code see col. 5 lines 55-60); a database stored in the computer system having a structure corresponding to the topographical structure of the remote auction system including a selection of topographical categories and sub-categories for the topical arrangement of multiple auction instances by the plurality of seller participants (data base 25); the user interface program operative to provide one or more data input fields to receive from the plurality of remote participant sellers a title and a subjective textual description for the

plurality of items (cotton gin application program allows for data as set forth gin name, address code see col. 5 lines 55-60); the computer system generating a data header that contains a user identification code corresponding to the plurality of remote participant sellers and an authorization password (inherent to any computer system having data) for the data record created for the plurality of items (see table col. 7,8 of Lindsey). Lindsey et al. further disclose a Table (see cols. 7 et seq.) which the host computer system presents as formatted information to a plurality of bidding internet participants (commodity buyer terminals 18), and receiving at least one bid for the plurality of items from at least one of the plurality of bidding internet participants (col. 28lines 48-52).

However, Lindsey fails to disclose the computer application program further including a user interface program operative to provide to the plurality of seller participants the selection of topographical categories and sub-categories for inputting data to build a data record of the plurality of items that will be subsequently posted into the remote topically arranged internet-based auction system, the selection of the topographical categories and sub-categories based at least in part from the information about the topographical structure of the remote topically arranged auction system retrieved from the data repository to assure proper linkage into the topographical structure maintained by the remote topically arranged internet-based auction system when the computer application program subsequently communicates the data record of the items to create the automated ascending bid auction instances for the plurality of items at the remote topically arranged internet-based auction system; and a communication handler program executing on a host computer system housing the remote topically arranged internet-based auction system receiving information from the computer application program executing on the computer system about the plurality of items to be auctioned, the received information comprising the selection of topographical categories and sub-categories, the title and the subjective textual description of the plurality of items, and the data header.

But E-bay 9/1995 does disclose the feature of categorically organized auctions arranged from data derived from topical categories inputted by the user of the interface and linking the two by the categories prescribed therein.¹ It would be obvious to modify Lindsey to include this feature of E-bay and to use Lindsey on an internet based system, the motivation being the introduction of different items for sale and the ease of finding different items by category. Official Notice is further taken as to the old and notorious use of the internet to conduct transactions.

Lindsey further fails to disclose the asynchronous generation and scheduling of automated ascending bid auction instances whereby remote seller participants are authorized to operate a computer application program to coordinate asynchronous generation and scheduling of automated ascending bid auction instances in the remote topically arranged internet-based auction system while the computer application program is isolated from communication with the remote topically arranged internet-based auction system does he disclose the handler program further processing the received information at the host computer system housing the remote internet based-auction system into a presentation format comprising scheduling information received from the seller participant operating the computer application program to (a) post the data record in the remote topically arranged internet-based auction system to initiate the automated ascending bid auction instances at the remote topically arranged internet-based computer system, (b) designate a time at which the computer application program will contact the remote topically arranged internet-based auction system to post at least one data record to initiate the automated ascending bid auction instance for the at least one data record at the remote topically arranged internet-based auction system, or (c) post the data record in the remote topically arranged internet-based auction system designating the plurality of items as on-hold awaiting the automated

¹ Application serial number 08/427,820 fails to disclose topical categories/subcategories input at the interface and using same to link to like items in auction. Thus, the 4/26/1995 filing date of 08/427,820 is not effective against the E-bay 9/1995 date as to this limitation.

ascending bid auction instance start date at the remote topically arranged internet-based auction system.

But, Chadima Jr. et al. does disclose the asynchronous generation and scheduling of automated ascending bid auction instances in that remote seller participants (1-5) are authorized to operate a computer application program to coordinate asynchronous generation and scheduling of automated ascending bid auction instances (see col. 10 for scheduling of bids) in the remote topically arranged internet-based auction system. Lindsey does disclose processing received information into a presentation format (see Table cols 7-18). It would be obvious to modify Lindsey to include a time table of the time at which an item would be put up for bid, the motivation being the ability to plan to purchase to get financing, etc. in line before purchasing.

Re claim 22: the placing the bales into market in Lindsey is deemed to be the manual start once the produce is listed in the database 25.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number 571 272 6780.

Joseph A. Fischetti
JOSEPH A. FISCHETTI
PRIMARY EXAMINER

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Art Unit 3627